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UNCLAS SECTION 01 OF 03 KUWAIT 004904

SIPDIS

SENSITIVE

STATE FOR NEA/ARP MISENHEIMER

E.O. 12958: N/A

TAGS: [PREL](#) [CJAN](#) [CVIS](#) [KCRM](#) [KU](#)

SUBJECT: PARLIAMENTARIAN REQUESTS ASSISTANCE FOR KUWAITI CITIZEN

REF: STATE 160410

1. (SBU) Summary and Action Request. In a letter dated 19 November 2005, Mohammad J. Al-Sager, Chairman of the Committee on Foreign Affairs, Kuwaiti Parliament, wrote Ambassador requesting Embassy intervention with U.S. Department of Justice on behalf of Kuwaiti citizen Ali Hijazi, a principal in the Kuwaiti firm La Nouvelle. Hijazi is a subject of an on going investigation regarding alleged contract irregularities involving a former employee of the KBR Corporation and La Nouvelle (see reftel). Al-Sager asserts that the U.S. District Attorney for the Central District of Illinois has indicted the KBR employee and Mr. Hijazi without cause. He notes that Kuwait and the U.S. do not have an extradition treaty, and that the U.S. would not have jurisdiction anyway regarding contracts concluded in Kuwait between two private companies. He further alleges that Department of Justice has denied Mr. Hijazi due process and that the U.S. Attorney refused to speak with La Nouvelle's counsel. Al-Sager asks that Embassy "intercede and express its concern to the Department of Justice with the hope that Mr. Hijazi's indictment would be dismissed and attempts to arrest, detain or extradite him around the world would cease." See para 3 for the text of Al-Sager's letter; para 4 for Embassy's proposed response. (Post understands that the Kuwaiti Ambassador provided an almost identical document to NEA.)

2. (SBU) Action Request: We have no way to evaluate the validity or accuracy of Mr. Al-Sager's points. However, Al-Sager is a senior official and a well-respected and valuable contact for Embassy. Ambassador proposes, with Department concurrence, to send him the letter text in para 4. Embassy also requests Department assistance in drawing the attention of Department of Justice to the issues addressed by Al-Sager for their consideration with the objective in mind of meeting with La Nouvelle's counsel regarding the case. End Summary and Action Request.

3. (SBU)

Begin Text of Al-Sager Letter

November 19, 2005

H.E. Honorable Richard LeBaron  
American Ambassador  
Embassy of the United States of America  
Kuwait City, Kuwait

My dear Mr. Ambassador:

First, let me thank you for all of your personal efforts to strengthen the relationship between our two great nations. Second, I feel compelled to bring a matter to your attention that concerns a Kuwaiti-based company and one of its principals.

La Nouvelle ("the Company") is a long-standing, Kuwaiti-based services company with an excellent reputation. It provides valuable contracting services to numerous contractors and government customers throughout the region, including to the Government of Kuwait. La Nouvelle was a passionate supporter of the Government of Kuwait and the Government of United States during the recent hostilities involving Iraq. The Company and Mr. Ali Hijazi, one of its principals, worked closely on-site with the U.S. military and related contractors to supply and support the armed forces and the post-Saddam Government in Iraq. They did so at great financial and personal risk. I know and respect Mr. Hijazi and he is highly respected by my Government as well. Mr. Hijazi is neither an American citizen nor a resident of the United States. He does not own property or pay taxes in the USA.

I have been informed of the following facts that I commend to your consideration. Following the primary phase of hostilities, an American-based contractor, KBR, came under investigation by the U.S. military and Department of Justice because of potential improprieties involving certain payments

and possible overcharges. KBR was one of the many contractors that La Nouvelle had well served, often in dire situations and under extreme time pressure. As part of its response to these investigations, KBR began to investigate many, if not all, of its contracts in the region. Regrettably, a commercial dispute arose between KBR and La Nouvelle. KBR wrongly suggested that there was some impropriety with respect to Mr. Hijazi's attempt to support and invest in a nascent business venture (which is legal under Kuwaiti Law) of a former, low-level KBR contracting officer, Mr. Jeff Mazon. KBR also wrongly suggested that there was some linkage between this attempted investment and an obvious pricing mistake on a small contract with La Nouvelle that KBR found during routine audit. The contract in question was for desperately needed transportation fuel tankers at the Aerial Port of Debarkation in Kuwait and represented less than 1 percent of the business done between KBR and La Nouvelle. In making this unsupported connection between two entirely unrelated circumstances, KBR ignored the very obvious nature of the pricing mistake, the fact that many other KBR employees besides Mr. Mazon were involved in review of this transaction, the fact that the subcontract was renewed--at the same erroneous price--by other KBR employees long after Mr. Mazon had left KBR's employ, and the fact that La Nouvelle had offered to adjust the contract price downward long before KBR even discovered the mistake.

It was not uncommon for even high ranking KBR employees to leave KBR and go into business with or be hired by commercial entities in the Gulf. Many did so on terms far more favorable than the abandoned arrangement between Mr. Hijazi and Mr. Mazon and many continued to work directly with KBR, unlike Mr. Mazon. KBR investigators interviewed Mr. Mazon about the attempted investment, and Mr. Mazon voluntarily provided open and honest responses acknowledging the relationship and denying any wrongdoing. Mr. Hijazi and Mr. Mazon likewise disclosed that the never-consummated arrangement occurred well after Mr. Mazon had decided to leave KBR, the fact it was supported by a written agreement, and, importantly, the fact that the investment had been abandoned. Thus no money was ever received or enjoyed by Mr. Mazon, who elected another career path. In an apparent effort to seek leniency with the Justice Department, however, and presumably to obtain leverage in its commercial dispute with La Nouvelle, KBR reported the relationship between Mr. Hijazi and Mr. Mazon to U.S. authorities, along with a host of other perceived contracting issues unrelated to La Nouvelle. La Nouvelle and KBR settled their dispute this past summer. The US government did not over pay or lose any money over this contract with KBR.

Sadly, after refusing to speak with La Nouvelle's counsel, the U.S. Attorney for the Central District of Illinois indicted Mr. Mazon and Mr. Hijazi and sought Mr. Hijazi's extradition despite the absence of any relevant treaty. The U.S. Attorney then refused to permit the court to rule on Mr. Hijazi's well founded Motion to Dismiss, mischaracterizing Mr. Hijazi as a fugitive in official documents and demanding that he be extradited and incarcerated in the U.S. before the Court considered the motion. Based on what I am told, this situation is particularly disturbing and disrespectful given the services provided by La Nouvelle, the wholesale absence of any criminal conduct, and the extraterritorial abuse of Mr. Hijazi despite the lack of any U.S. jurisdiction. I am also told that Mr. Hijazi who is neither a US citizen or a resident of the USA performed his work under Kuwait law, in the territory of Kuwait, under a Kuwaiti commercial company that performed services as a subcontractor to KBR in Kuwait. Further, it seems that not only was the attempted investment well after Mr. Mazon left KBR and eventually abandoned, but La Nouvelle also successfully sued KBR with the assistance of Hogan and Hartson LLP, the oldest and largest Washington D.C. based firm, in U.S. Federal court for payment on the contract at issue. La Nouvelle settled with KBR on the contested contract for full payment, receiving a substantial payment with the knowledge and approval of the U.S. Moreover, KBR counsel have acknowledged that they are aware of no quid pro quo for Mr. Hijazi's documented, yet ultimately unsuccessful, attempt to enter into a long-term business venture with Mr. Mazon. Throughout all of this, I am informed that the U.S. Government never even consulted with the Government of Kuwait.

Your Excellency, I would greatly appreciate it if you might look into this situation. La Nouvelle had no contract with the U.S. Government, only with KBR. Respected counsel in Kuwait have examined the relevant contract and have found no irregularities. Counsel in Kuwait also have reviewed the indictment and are concerned that U.S. authorities have attempted to assert jurisdiction. I am further advised that U.S. law likewise suggests that there is no jurisdiction. Some would suggest that these policies fail to honor Kuwait's sovereignty and put all Kuwaitis at risk for unfair prosecution in the U.S. for commercial transactions with U.S. corporations. Here, Mr. Hijazi is in peril of being extradited to the U.S., imprisoned, and unfairly prosecuted

all for a case where the alleged "bribe" post dates Mr. Mazon's employment with KBR, the transaction was never completed, and the U.S. ultimately approved payment for the work done on the contract. Neither Kuwait citizens nor others in Kuwait should be subject to such extraterritorial abuses of the U.S. judicial system. Had the U.S. attempted to prosecute in Kuwait, where all the relevant activity occurred and where the contract with KBR was executed and performed with distinction, the U.S. would have had no legal grounds to have brought the case, and a Kuwaiti court would have most certainly dismissed it.

Under these circumstances, it would be greatly appreciated if the U.S. Department of State might consider it appropriate to intercede and express its concern to the Department of Justice with the hope that Mr. Hijazi's indictment would be dismissed and attempts to arrest, detain or extradite him around the world cease. It is also reasonable to inquire whether the Department of Justice might consult the Government of Kuwait, in the future, when it proposes to attempt to impose its jurisdiction on commercial entities and residents of Kuwait.

Respectfully submitted,

Mohammed Al Sager (signed)  
Chairman of the Committee on Foreign Affairs  
Kuwaiti Parliament

End Text of Al-Sager Letter

14. (SBU)

Begin Text of Proposed Embassy Response to Al-Sager

Dear Mr. Al-Sager:

I have received your letter of 19 November inquiring about an on going investigation regarding alleged contract irregularities involving the KBR Corporation and the Kuwaiti firm La Nouvelle.

This matter has also been raised in Washington by Kuwait's Ambassador to the United States. I am forwarding your letter to the Department of State for consideration of appropriate action.

End Text of Proposed Embassy Response to Al-Sager

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Visit Embassy Kuwait's Classified Website:  
<http://www.state.sgov.gov/p/nea/kuwait/>

You can also access this site through the  
State Department's Classified SIPRNET website  
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